

RUSSELL M. BLAU
ATTORNEY-AT-LAW

SWIDLER
&
BERLIN
CHARTERED

DOCKET FILE COPY ORIGINAL

DIRECT DIAL
(202) 424-7835
RMBLAU@SWIDLAW.COM

June 4, 1998

EX PARTE OR LATE FILED

BY HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED

JUN - 4 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

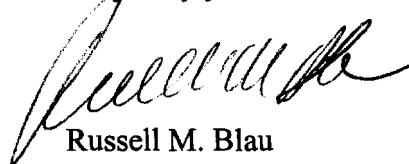
Re: Ex Parte Presentation in CC Docket No. 98-39

Dear Ms. Salas:

Pursuant to Section 1.1206(a) of the Commission's Rules, 47 C.F.R. § 1.1206(a) (1997), this is to provide an original and one copy of a notice of an *ex parte* presentation made yesterday in the above-referenced proceeding on behalf of Commonwealth Telephone Enterprises, Inc. ("CTE"), by Gary Zingaretti, Mark DeFalco and the undersigned, to Melissa Newman and Liz Nightingale of the Policy and Program Planning Division, Common Carrier Bureau. The purpose of the meeting was to discuss CTE's concern that any action taken in this proceeding should not apply to smaller incumbent LECs, and in any event should not apply to ILEC affiliates that are operating as CLECs outside of the ILEC's service territory. Copies of the attached written materials were provided to the FCC participants at the meeting.

Should any further information be required with respect to this *ex parte* notice, please do not hesitate to contact me. I would also appreciate it if you would date-stamp the enclosed extra copy of this filing and return it with the messenger to acknowledge receipt by the Commission.

Very truly yours,



Russell M. Blau

Enclosures

cc (w/o enc.): Melissa Newman
Liz Nightingale
Gary Zingaretti
Mark DeFalco

No. of Copies rec'd 001
List A B C D E

Commonwealth Telephone Enterprises, Inc. (CTE)

June 3, 1998

Meeting with FCC Common Carrier Bureau

Re: CC Docket No. 98-39

(Petition regarding ILEC Affiliates)

1. Background

Commonwealth Telephone Enterprises, Inc.: holding company (NASDAQ National Market: CTCO), headquartered in Dallas, PA.

Parent of:

- a. Commonwealth Telephone Company: incumbent LEC serving approx. 250,000 access lines in rural Eastern Pennsylvania. Classified as rural telephone company under Telecommunications Act of 1996 (does not serve any community with population of 50,000 or more).

and of:

- b. Commonwealth Telecom Services, Inc. ("CTSI"): competitive LEC serving customers in Bell Atlantic and GTE exchange areas in Pennsylvania (Wilkes-Barre, Scranton, Harrisburg, and surrounding areas). Future expansion to upstate New York and western Maryland. Providing *facilities-based residential service* in Kingston, Pennsylvania, in competition with Bell Atlantic.

2. CompTel/FCCA/SECCA Petition

- a. Concerns "regulatory status of affiliates of incumbent local exchange carriers . . . that provide wireline local exchange or exchange access service *within the ILEC's service territory* using the same or a similar brand name and . . . other resources of the ILEC or another corporate affiliate." (Petition at 1, footnotes omitted, emphasis added.)
- b. Argues that such affiliates should be treated either as "successor or assign" of the ILEC under Sec. 251(h)(1)(B)(ii), or as a "comparable carrier" under Section 251(h)(2); in either case, the affiliates would become subject to the 251(c) obligations of an ILEC.
- c. "CompTel, FCCA, and SECCA have no objections to an ILEC's establishing a CLEC affiliate to operate *outside* the ILEC's service territory, and we believe that these entities should *not* be treated as ILECs to the extent that they operate outside their ILEC affiliate's service territory. Such entry by an ILEC affiliate into another ILEC's territory is exactly the kind of competition that the Telecommunications Act of 1996 was intended to stimulate." Petition at 3 (emphasis in original).

3. CTE Position: Any Action in this Docket Should be Limited to "In-Territory" Operations of ILEC Affiliates, and Should Not Affect Out-of-Territory Competition
- a. CTSI does not operate in the service territory of its ILEC affiliate, Commonwealth Telephone Co.
 - b. CTE agrees with comments of ITTA that the relief sought in the Petition should not be applied to mid-sized ILECs (those serving less than 2% of the Nation's access lines). However, CTE takes no position on what, if any, action the Commission should take with respect to affiliates of larger ILECs that do operate within the ILEC's service territory.
 - c. CTE agrees with the petitioners that competitive entry by ILECs or their affiliates into the service territories of other ILECs is "exactly the kind of competition that the . . . Act was intended to stimulate."
 - i. ILEC affiliates can be effective competitors by leveraging existing technical resources, back-office and billing systems, and operational skills in out-of-territory ventures.
 - ii. However, ILEC affiliates have no unique or irreproducible advantages by virtue of their affiliation—they need to negotiate interconnection agreements; obtain rights-of-way, lease facilities or buy wholesale services from third parties; and market their services to new customers just as any other competitive entrant does.
 - iii. Transactions between affiliates must comply with applicable FCC and state cost allocation rules, so ILEC affiliates will not enjoy any unfair cost advantage.
 - d. In acting on the Petition, the FCC should not take any action that (by design or as an unintended consequence) makes it harder for ILEC affiliates to engage in out-of-territory competition.
 - i. For example, FCC should not consider adopting any new rules (e.g., reporting requirements) that would impose costs on all ILEC affiliates regardless of whether they operate in-territory or raise any of the concerns identified in the Petition.